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M&B Services, Inc. and Service Employees International Union, Local 100. Case 15–CA–18808

August 26, 2010

DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS SCHAUMBER
AND HAYES

On May 29, 2009, the two sitting members of the Board issued a Decision and Order in this proceeding, which is reported at 354 NLRB No. 21.¹ Thereafter, the General Counsel filed an application for summary enforcement. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S.Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained. Thereafter, the Acting General Counsel filed a motion to withdraw the application for summary enforcement, and the court of appeals granted the motion.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.²

The General Counsel seeks default judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. As described more fully in the above-referenced decision, the Respondent has neither filed an answer to the complaint nor a response to the Notice to Show Cause why the General Counsel's motion should not be granted. The allegations in the motion are therefore undisputed.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint. In the absence of good

cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Default Judgment.

Accordingly, we adopt the findings of fact, conclusions of law, remedy, and order set forth in the decision and order reported at 354 NLRB No. 21, which is incorporated herein by reference.

Dated, Washington, D.C. August 26, 2010

Wilma B. Liebman, Chairman

Peter C. Schaumber, Member

Brian E. Hayes, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

² Consistent with the Board's general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the members who participated in the original decision. Furthermore, under the Board's standard procedures applicable to all cases assigned to a panel, the Board Members not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision.